



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant(s): Marrie Harras, *et al.* Group Art Unit: 1647  
Application No.: 09/703,253 Examiner: R. Landsman  
Filed: 10/31/2000  
Title: Novel Human Transporter Proteins and Polynucleotides Encoding the Same Atty. Docket No. LEX-0081-USA

**RESPONSE TO RESTRICTION; AMENDMENT;  
AND RESPONSE TO OFFICE ACTION  
DATED DECEMBER 19, 2001**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

The Applicants acknowledge the receipt of the Office Action ("the Action") mailed on December 19, 2001 (Paper No. 11), which has been carefully reviewed and studied.

A Petition for an Extension of Time of one month from March 19, 2002 to April 19, 2002 and authorization to deduct the fee as required under 37 C.F.R. § 1.17(a)(1) from Applicants' Representatives' deposit account are included. With this extension the response is due on April 19, 2002. This communication is thus timely filed.

The Examiner is respectfully requested to consider the following amendments and remarks. Reexamination and reconsideration of the application is requested in view of the following amendments and remarks. In order to facilitate the Examiner's evaluation of the application, Applicants have attempted to address the objections and rejections in Paper No. 11 in the same order in which they were originally raised.

Also included herewith are: Exhibit A which is a marked-up version of the claims showing the amendments made herein; Exhibit B is a clean copy of the claims that will be pending upon entry of the present amendment; Exhibit C is a copy of GENBANK Accession No. AY040219; Exhibit D is a copy of GENBANK Accession No. AF367202; Exhibit E is the abstract of the publication associated with GENBANK Accession No. AY040219 shown in Exhibit C; Exhibit F is the abstract of the

publication associated with the GENBANK Accession No. AF367202 shown in Exhibit D; and Exhibit G is an abstract of a publication, demonstrating that the utility of the presently described transporters is well known in the art (entitled "The human ATP-binding cassette transporter genes: from bench to bedside", (Efferth, T., Curr Mol Med 1:45-65, 2001).

### **Restriction Requirement**

The Examiner has determined that the original claims are directed to three separate and distinct inventions under 35 U.S.C. § 121, as follows:

- Group I: Claims 1 and 2, allegedly drawn to an isolated nucleic acid molecule of SEQ ID NO:23 and encoding SEQ ID NO:24, classified in class 536, subclass 23.5.
- Group II: Claim 3, allegedly drawn to an isolated nucleic acid molecule of SEQ ID NO:1 and encoding SEQ ID NO:2, classified in class 536, subclass 23.5.
- Group III: Claim 4, allegedly drawn to an isolated nucleic acid molecule of SEQ ID NO:47 and encoding SEQ ID NO:48, classified in class 536, subclass 23.5.

### **Response to Restriction and Election Requirement**

Applicants acknowledge that Applicants' representative David Hibler made an oral election with traverse of Group I during a telephone call with the Examiner. Group I includes claims 1 and 2, allegedly drawn to an isolated nucleic acid molecule of SEQ ID NO:23 and encoding SEQ ID NO:24, classified in class 536, subclass 23.5. Applicants reserve the right to refile claims to the non-elected inventions in one or more future applications retaining the priority date of the present case and the earlier cited priority applications.